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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,138	02/13/2004	Minh Van Ngo	50432-608	3802
7590 09/08/2005 McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER CHAUDHARI, CHANDRA P	
			ART UNIT 2891	PAPER NUMBER

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,138

Applicant(s)

NGO ET AL

Examiner

Chandra Chaudhari

Art Unit

2891

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 16, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner – US 6,225,168.

Gardner (Figs. 3A-3E and text in col. 5, line 40 to col. 7, line 40) discloses the claimed invention by forming a removable gate 305 with a gate dielectric layer 303 therebetween, forming a dielectric layer 307, removing the removable gate, depositing a layer of Ta lining the opening by sputter deposition (PVD) at a thickness of 25 to 60 Å, converting the Ta layer into a high-k gate dielectric layer by oxidizing, and depositing metal 311, which is planarized by CMP, to fill the opening.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner.

Gardner is applied as above and does not disclose heating in an atmosphere of oxygen and N_2O , nor using a plasma, nor annealing in a plasma containing ammonia after oxidizing. Gardner does state using oxygen and nitrogen during oxidation of the Ta layer, and to anneal after oxidizing in a nitrogen bearing species. It is reasonable to one of ordinary skill in the art to heat in oxygen and N_2O to control the oxidation rate. Annealing after oxidizing in ammonia may be used to effectively control defects and leakage. Plasma may be used as an art recognized equivalent to the oxidation disclosed by Gardner (and also to reduce the thermal budget).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to heat in an atmosphere of oxygen and N_2O , use a plasma, and anneal in a plasma containing ammonia after oxidizing as discussed above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maiti - US 6,020,024 , Yu - US 6,372,659 , and Suguro - US 6,476,454 describe forming high-k dielectrics.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandra Chaudhari whose telephone number is 571-272-1688. The examiner can normally be reached on Mon - Fri (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Baumeister can be reached on 571-272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chandra Chaudhari

Primary Examiner

Art Unit 2891

C. Chaudhari

Chandra Chaudhari

September 2, 2005